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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re M.L., a Person Coming Under the
Juvenile Court Law.

E.L.

Petitioner,

v.

THE SUPERIOR COURT OF LOS
ANGELES COUNTY,

Respondent;

LOS ANGELES COUNTY OF
CHILDREN AND FAMILY SERVICES,

Real Party in Interest.

B215025

(Los Angeles County
Super. Ct. No. CK69869)

ORIGINAL PROCEEDINGS; petition for extraordinary writ. D. Zeke Zeidler,
Judge. Writ denied.

Los Angeles Dependency Lawyers, Inc., Law Office of Emma Castro, Ellen L.
Bacon and L. Steven Lory for Petitioner.

James M. Owens, Assistant County Counsel, Frank J. DaVanzo, Principal Deputy
County Counsel, for Real Party in Interest.

Children's Law Center, Ronnie Jade Cheung for Minor.

No appearance for Respondent.

I. INTRODUCTION

E.L. (father), father of the minor child M.L., born April 2001, petitions the court for extraordinary relief pursuant to California Rules of Court, rule 8.452. He seeks review of an order terminating family reunification services pursuant to Welfare and Institutions Code section 361.5, subdivisions (b)(6).¹ We deny the petition.

II. FACTS AND PROCEDURAL HISTORY

On August 23, 2007, M.L.'s maternal aunt contacted the Department of Children and Family Services (the Department) to say that her niece reported that she had been sexually abused by her father for several years. The aunt also contacted the Los Angeles Sheriff's Department in order to file a complaint against father, and brought M.L. to the Sheriff's Department. M.L. told the officer that when she was three years old (she was six at the time of the interview) her father would put her into his bed, take off her clothes and touch her vagina. M.L. displayed her right index finger to the officer and moved it back and forth as if the finger were penetrating her vagina. M.L. told the officer that it hurt her when father did that. M.L. said that her father did this to her many times, although she did not remember the exact number of occasions on which it happened. She also told the officer that approximately three years earlier, she had told her mother that father touched her in the vaginal area. Mother did not believe her. Mother nevertheless did take M.L. to a doctor, but did not mention the sexual abuse to the doctor. Father denied the allegations and continues to deny them.

On September 11, 2007, the Department filed a dependency petition in which it alleged that M.L. fell within the provisions of section 300, subdivisions (a), (b) and (d). The first detention hearing was held on September 11, 2007. The court sustained the allegations of the petition and detention findings were made as to father only; M.L. was

¹ All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

released to the custody of her mother. Father was granted weekly visitation to be monitored by a Department approved monitor. The matter was continued to September 26, 2007. In the interim, mother filed an Order to Show Cause requesting a restraining order against father and requesting that father be prevented from seeing M.L. This matter came on for hearing on September 26, 2007. However, father had secured a new lawyer and the matter was continued to October 4, 2007, in order for father's new attorney to familiarize himself with the case. On October 4, 2007, father was again accorded monitored visitation with M.L., who was released to the care of her mother.

On October 23, 2007, the Department prepared a jurisdiction/disposition report in anticipation of a pre-resolution conference hearing. The report listed the criminal history of both parents, including an incident which occurred on August 19, 2007, after mother drove while intoxicated to father's house at four in the morning to confront him about the sexual abuse. At that time, father and mother engaged in a physical altercation in front of M.L. Mother was arrested and convicted of battery in connection with this incident. The Department also reiterated the sexual abuse charges against father as well as his history of hitting M.L. with a belt on her hands if she did not submit to his sexual advances. The report further indicated that both mother and father had substance abuse problems which could be detrimental to M.L.

Court-appointed psychologist Ronald Fairbanks, Ph.D., interviewed M.L. after reviewing the records in this case. Dr. Fairbanks found M.L. to be a credible and effective communicator who did not appear to have been coached. He reported that M.L. "seems to be very transparent and does not appear to be in any way trying to manipulate the situation."

On February 5, 2008, the Department prepared a detention report. For the first time, the Department questioned the wisdom of allowing M.L. to reside with her mother. Specifically, the Department received a child abuse referral on January 30, 2008, from Officer Palmer of the Whittier Police Department which stated the principal at M.L.'s

school had been notified that Andrew L., a registered sex offender, was living in mother's home. Mr. Andrew L. was the father of one of mother's children and was currently mother's boyfriend. When contacted, M.L. stated that she had been living in a hotel with mother and Mr. Andrew L. Mother was advised that her children, including M.L., had to be detained because she had failed to protect them from a registered sex offender. Thereafter, mother's children were placed in a licensed foster home.

On February 5, 2008, the court detained M.L. and found that a prima facie case had been shown for detaining her pursuant to section 300, subdivisions (a), (b) and (d). The court also ordered the Department to provide reunification services and monitored visitation for mother and father. On February 8, 2008, the court ordered M.L. detained in shelter care.

On March 11, 2008, the Department filed a Second Amended Petition which stated that M.L. came within the meaning of sections 300, subdivisions (a), (b) and (d). It also filed a jurisdiction/disposition report which stated that the children had been released to the maternal grandparents. The Department recommended that M.L. be declared a dependent of the court and taken from the control of her parents.

On April 1, 2008, the Department filed a Third Amended Petition in which it declared that M.L. came within the meaning of section 300, subdivisions (b), (d), and (j).

A contested 12-month review hearing was held on March 19, 2009. Father's lawyer called father's therapist, Larissa Tittle, to testify in father's behalf. Ms. Tittle was treating father once a week and had been doing so since August of 2008. In her testimony, Ms. Tittle conceded that father continued to deny that he had sexually assaulted M.L. and also denied that he had an altercation with mother despite the fact that mother had been jailed for the incident. Moreover, in response to the court's questions, Ms. Tittle admitted that the program she was using did not address how to determine whether there was a risk of sexual abuse by father. She also testified that she did not have "any training or education in determining whether someone, a perpetrator of sexual

abuse, poses further risk." She also did not have any education or training in treating individuals who had been found to have perpetrated sexual abuse but had not acknowledged it.

After hearing all of the evidence, both testimonial and documentary, the respondent court acknowledged that father had complied with the case plan. The court nevertheless found by a preponderance of the evidence that return of M.L. to father would create a substantial risk of detriment to her physical or emotional well-being. The court stressed that father was still in denial of the allegations of both sexual abuse and physical injuries. Moreover, the court noted that M.L. was still afraid of father and never wanted to be alone with him. After finding by clear and convincing evidence that the Department had provided reasonable services to father, the court terminated reunification services. Father seeks review of that order in this writ proceeding, and challenges the adequacy of the reunification services provided to him by the Department.

III. DISCUSSION

We review the juvenile court's finding that reunification services were adequate for substantial evidence. (*Angela S. v. Superior Court* (1995) 36 Cal.App.4th 758, 762.) The same standard of review applies to the juvenile court's finding that return of M.L. to her father would create a substantial risk of detriment. (*Id.* at p. 763.) "In juvenile cases, as in other areas of the law, the power of an appellate court asked to assess the sufficiency of the evidence begins and ends with a determination as to whether or not there is any substantial evidence, whether or not contradicted, which will support the conclusion of the trier of fact. All conflicts must be resolved in favor of the respondent and all legitimate inferences indulged in to uphold the verdict, if possible." (*In re Rocco M.* (1991) 1 Cal.App.4th 814, 820.)

A. Substantial evidence supports trial court's finding that reasonable reunification services were provided

Father asserts that the juvenile court's finding that the Department provided reasonable reunification services to him is not supported by substantial evidence. Specifically, father maintains that he was not provided adequate services because he was not allowed conjoint counseling with M.L. He alleges that the Department did not follow the court's order to investigate counseling with M.L. We disagree.

The Department did investigate conjoint counseling. However, M.L. stated many times that she was afraid of her father. M.L. was free to agree or disagree to engage in counseling with her father; she chose not to. The Department did not fail to provide services to father as a result of M.L.'s decision. Moreover, the court did not order the Department to arrange conjoint counseling but merely to investigate the possibility. Therefore, the Department did not fail to follow the court's instructions.

The adequacy of the reunification plan and of the Department's efforts to provide suitable services is judged according to the circumstances of each particular case. (*In re Ronnell A.* (1996) 44 Cal.App.4th 1352, 1362.) "In almost all cases it will be true that more services could have been provided more frequently and that the services provided were imperfect. The standard is not whether the services provided were the best that might be provided in an ideal world, but whether the services were reasonable under the circumstances." (*In re Misako R.* (1991) 2 Cal.App.4th 538, 547.) Here, the services offered to father were reasonable under the circumstances of this case.

B. Substantial evidence supports trial court's finding of detriment

Father attacks the juvenile court's termination of family reunification services, arguing that there is no substantial evidence for the court's finding that there would be a substantial risk of detriment if M.L. were returned to father's care.

Father contends that the trial court's detriment finding was based principally on his continuing denial of the allegations against him. He asserts that he thus found himself in a "confession dilemma" as that term is described in *Blanca P. v. Superior Court* (1996) 45 Cal.App.4th 1738. In that case, the appellate court considered the situation where the sole basis for establishing continuing detriment to the child was the fact that the father maintained that he never molested the child. In *Blanca P.*, however, the detriment finding was made "without ever examining whether any molestation ever really occurred" (*id.* at p. 1742), and there was in fact substantial doubt about the matter. Here, in contrast, the trial court was clearly convinced that father had molested M.L., and the record provides substantial evidence for that finding: M.L. had reported the sexual abuse to multiple adult caretakers: first to her mother, then to her maternal aunt, her maternal grandmother, her maternal grandfather, and finally to sheriff's department officers. M.L. described the molestation in great detail, reflecting knowledge one would not expect in so young a child had she not been sexually molested. The court-appointed psychologist, Dr. Fairbanks, opined that M.L. appeared to be credible, had not been coached, and was not trying to manipulate the situation. Further, M.L. reported that she was afraid to be alone with her father. Thus, this is not a case like *Blanca P.* where the only basis of the finding of detriment was a sustained petition containing dubious allegations of child molestation.

IV. DISPOSITION

The petition for extraordinary relief is denied. This opinion shall become final immediately upon filing. (Cal. Rules of Court, rule 8.264(b)(3).)

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ARMSTRONG, Acting P. J.

We concur:

MOSK, J.

KRIEGLER, J.